Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Petition for Rulemaking of Fibertech Networks, LLC	RM-11303

VERIZON'S REPLY COMENTS

ON

FIBERTECH'S PETITION FOR RULEMAKING

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Introduction and Summary

Fibertech asked this Commission to implement a series of new specific federal rules governing pole and conduit access. Many of the commenters demonstrate that there are no competitive inequities under the Commission's current rules warranting new federal rules. A few commenters support Fibertech's petition and propose even more regulations, but none of them provide any evidence of any competitive inequities or problems under the current rules. There is simply no basis for the additional regulations requested by Fibertech or any of the commenters to "fix" a system that is not broken. The Commission should therefore deny

[1] The Verizon telephone companies ("Verizon") were listed in Attachment A to Verizon's Opposition in this proceeding (filed Jan. 30, 2006).

Fibertech's petition for a rulemaking and should not adopt any of the new rules proposed by Fibertech or any other commenter regulating pole and conduit access.

The rules proposed by Fibertech and several commenters are precisely the type of specific rules that the Commission has rejected. These commenters attempt to justify their proposed departure from the Commission's long-standing deregulatory approach to attachments by claiming that their specific rules are necessary to prevent discrimination and anticompetitive behavior in the provision of pole and conduit access. Yet, none of these commenters demonstrate that pole and conduit owners are denying or restricting access in a discriminatory manner or causing any competitive harm under the current rules. Moreover, many of the specific rules proposed by the commenters contradict existing rules and would threaten pole and conduit owners' ability to ensure the safety of all attachers' facilities on their poles and conduits and impede the efficient and fair administration of pole and conduit space.

Each of the proposed rules addressed by the commenters is discussed in turn below.

I. Proposed Regulation of Boxing and Extension Arms

Verizon explained in its Opposition that the Commission should not require "boxing" or the use of extension arms if "the pole owner has previously allowed use of the technique." The mere fact that boxing or extension arms could be safely employed on one pole in a pole owner's network does not mean that boxing or extension arms can be safely used on a different pole in another location. Rather, the safety and feasibility of using boxing or extension arms must be evaluated on a case-by-case basis, taking account of numerous factors, such as the location of the pole and the placement of prior attachments. For these reasons, Fibertech's proposed rules regarding boxing and extension arms should be rejected.

Two commenters – McLeod and segTEL – go even farther than Fibertech's flawed

proposal and suggest that the Commission should require pole owners to allow boxing on their poles even if the pole owner has not previously allowed such techniques. McLeod Comments at 3; segTEL Comments at 3. In fact, they go so far as to claim that the use of pole boxing and extension arms for the placements of additional cable "is an accepted practice in the telecommunications industry." segTEL Comments at 3; *see also* McLeod Comments at 2. There is no sound justification to impose such a requirement on pole owners.

As explained by Ms. Harrington, the use of pole boxing and extension arms is not an accepted general practice in telecommunications industry. *See Harrington Reply Decl.*, ¶ 13.[2] Rather, these techniques are used on an exception basis where it makes engineering sense and does not create safety concerns. *Id*. Because of the widely varying field conditions where Verizon has placed poles, it is simply not possible to establish a set of general rules to govern the use of these techniques. *Id*. Each situation must be evaluated individually to determine whether pole boxing or extension arms can be used safely and efficiently.

Moreover, pole boxing and extension arms greatly complicate pole replacements and make it more difficult and dangerous to work on pole attachments. *Id*., ¶ 14. If a pole owner has not previously allowed the use of these techniques in particular circumstances, that pole owner will likely not have equipment and trained personnel that are capable of addressing these attachment techniques. *Id*. The Commission should not require a pole owner that has not previously permitted the use of pole boxing or extension arms in particular circumstances to acquire equipment and train its personnel to accommodate these pole attachment techniques.

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[2] Reply Declaration of Gloria Harrington (March 1, 2006) (appended hereto as Attachment A) ("*Harrington Reply Decl.*").

segTEL claims that one of the reasons boxing and extension arms are needed is because "the ILEC has taken the lowest position on the poles, but has placed its lowest cable substantially higher than the minimum clearance." segTEL Comments at 3. segTEL suggests that the ILEC should either be required to attach its facilities at the minimum clearance level (and move pre-existing attachments to that position) or permit attaching parties to cross over the ILEC's facilities to attach in a lower position on the pole. *Id*. As explained by Ms. Harrington, these proposals would create safety concerns for the general public and make it more difficult to complete pole replacements.

The reason Verizon's facilities are attached beneath all other attachments on the pole is that copper cables are heavier than other cables (such as fiber optic cables and coax cables) and sag more at the mid-point between the poles. *See Harrington Reply Decl.*, ¶ 16. If a lighter fiber optic cable were attached below a heavier copper cable on the pole and there were only 12 inches of separation at the pole, the copper cable could actually sag about 2 feet below the fiber cable at the mid-point and the two cables would likely become entangled and damaged by wind and other environmental conditions. *Id*., ¶¶ 16-17. In addition, placing an attacher's facilities below Verizon's facilities on the pole would complicate pole replacements because Verizon would have to make one trip to transfer its facilities to the new pole and a second trip to remove the pole after the attacher at the bottom transferred its facilities. *Id*., ¶ 18.

There are also sound reasons for Verizon to attach its facilities above the minimum clearance level, particularly over roadways. As explained by Ms. Harrington, even if Verizon's facilities are initially attached at the minimum clearance levels, ice loading, road construction and other environmental conditions can result in Verizon's facilities being below minimum clearance levels. *Id*., ¶ 19. In addition, Verizon's practice of attaching above minimum

clearance levels provides an extra margin of safety against damage from over-height vehicles traveling the roadway. *Id*. For all of these reasons, segTEL's complaints about the placement of ILEC cables have no merit, and its proposed regulations should be rejected.

II. Proposed Rules Imposing Deadlines for Surveys and Make-Ready Work

In its Opposition, Verizon explained why the Commission should not adopt Fibertech's proposed new rules concerning the timing of surveys and make-ready work. Verizon responds to license applications and completes make-ready work for pole and conduit attachments in a timely and non-discriminatory manner, in compliance with the Commission's existing guidelines. *See Local Competition Order*, 11 FCC Rcd 15499, ¶ 1224 (1996). Indeed, Verizon most often completes make-ready work for competitors' pole and conduit attachments *more* quickly than it does for its own attachments. *See* Declaration of Gloria Harrington, ¶¶ 6-7, 26-27 (Jan. 30, 2006) (appended to Verizon's Opposition as Attachment B)

Several commenters propose their own new rules concerning the timing of surveys and make-ready work. None of these commenters provide any evidence of a widespread problem to justify their new rules, and their proposed rules should be rejected as well.

For example, McLeod proposes that whenever a pole owner denies an application, the Commission should require that the pole owner meet promptly with the applicant in person to identify an alternate route that is likely to be available. McLeod Comments at 4. According to McLeod, "[w]hen an application is denied, the process ordinarily starts all over again, in which case the combined time frames for repeated for [sic] applications and make-ready work can easily exceed 180 days." *Id*. Such a regulation, however, is completely unnecessary as ILECs such as Verizon already have procedures in place to minimize the need for repeated applications.

For example, for pole attachments, the applicant's representative should – and most often

does – accompany Verizon's engineer on the survey. The applicant's representative will then learn immediately if there is any problem with access to particular poles on the application. In fact, as Ms. Harrington explains, when such problems are encountered during the survey, Verizon's engineer will work with the applicant's representative on the spot to identify an alternative arrangement. *See Harrington Reply Decl.,* ¶ 5.

Similarly, for conduit applications, Verizon makes available an alternative process for attachers in New England states that would like a conduit route between two points. Under this process, Verizon will look for alternative routes if the route requested by the attacher is not available. *See Harrington Reply Decl.,* ¶ 25. In addition, the attacher can request that Verizon provide assistance in planning a route even before the attacher submits an application for a particular route. *Id.*

McLeod also suggests that "small projects have shorter time frames than large ones, so that applications for short segments of conduit or a small number of poles can be completed within less than 45 days." McLeod Comments at 4. As Ms. Harrington explains, the number of poles or the size of the conduit segments on the application do not necessarily indicate how long it will take to complete the application. *See Harrington Reply Decl.,* ¶¶ 6, 26. For example, it may take weeks for Verizon to obtain a permit from a local transportation department just to open a manhole to survey a small segment of conduit in a downtown area. *Id.,* ¶ 26.

In addition, establishing a shorter interval for smaller applications will create an incentive for applicants to game the system. Rather than submit a single application for a complete end to end route, an applicant may break that application into smaller applications just to take advantage of the shorter interval for small applications. *See Id.,* ¶¶ 7, 27. This will simply increase the number of applications Verizon needs to process for the same number of

attachments or conduit segments.

McLeod also suggests that the Commission require pole owners to set forth in writing their application processes and time frames. McLeod Comments at 4. McLeod has not provided any evidence of a widespread problem with pole owners' application processes and time frames. Where Verizon is regularly receiving pole attachment and conduit applications, Verizon has made its application processes and time frames available to attachers. *See Harrington Reply Decl.*, ¶ 8. However, where Verizon receives few or no such applications, Verizon's website lists contact information for each state and these contacts can provide guidance and answer any questions an applicant may have about the application process. *Id.*, ¶ 9.

McLeod urges the Commission to "require that the time frames for survey work and make-ready work be combined and/or coordinated." McLeod Comments at 4; *see also* Indiana Fiber Works Comments at 4 ("internal record searches, surveys and make ready work for up to 750 poles should be completed within 90 days"). But the Commission's current 45-day time frame for surveys and application responses is based on the Commission's balancing of attachers' need for timely access to poles and conduit against owners' need to conduct surveys to ensure that new facilities can be installed safely. *See Local Competition Order* ¶ 1224; *Order on Reconsideration* ¶¶ 117-119.[3]

In addition, any attempt to require that make-ready work be completed within 45 days would fly in the face of the Commission's existing guidelines regarding rearrangements of other attachers' facilities. Make-ready work that must be completed to prepare for new attachments to poles or conduits may affect existing attachments. In fact, it may not even be possible for a pole owner to start its make-ready work until other attachers have rearranged their existing

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[3] 14 FCC Rcd 18049 (1999) ("*Order on Reconsideration*")

attachments. And, as the Commission has recognized, parties with preexisting attachments to a pole or conduit must have "sufficient time to evaluate the impact of or opportunities made possible by the proposed modifications on their interests and plan accordingly." *Local Competition Order*, ¶¶ 1207, 1209. Accordingly, absent a private agreement to the contrary, pole and conduit owners must provide 60 days' notice to all attachers before making any modifications to the pole or conduit. *Id.* This notification requirement would make it impossible to complete make-ready work within 45 days where other attachments are affected.

III. Proposed Rules Regarding Drop Lines

Verizon explained in its comments why drop lines should not be treated any differently than other pole attachments. Advance licensing for all attachments, including drop lines, ensures that all applicants' requests are considered in the order received and that attachers do not install drop lines in a pole space already licensed to another attacher. In addition, advanced licensing ensures that pole attachments, including drop lines, do not exceed the maximum permissible load.

Several commenters argue that the Commission's *Mile Hi* decision[4] eliminated any requirement for prior approval to attach to a drop pole. Their reliance on the *Mile HI* decision is misplaced because that decision merely interpreted an agreement between the parties. There is no Commission decision or rule that creates an exception to the licensing process for drop lines.

These commenters point to language in the *Mile HI* decision where they assert that the Commission has "concluded that 'drop poles are subject to notification requirements but not prior approval requirements separate from the approval of the attachment for which it is an adjunct.'" *See, e.g.*, segTEL Comments at 8, *quoting Mile Hi* ¶ 20; *see also* McLeod Comments

[4] *Mile Hi Cable Partners v. Public Service Co.*, 15 FCC Rcd 11450 (2000) ("*Mile Hi*").

at 6. The *Mile Hi* decision, however, is based on an interpretation of the contract between the pole owner and the attacher, rather than an application of the Commission's rules. On Application for Review, the pole owner argued that "the parties' contracts do not distinguish between mainline and drop poles and [the pole owner] may apply all contract terms, including advance authorization, rent, and unauthorized attachment fee requirements, to drop poles." *Mile Hi Cable Partners v. Public Service Co.*, 17 FCC Rcd 6268 ¶ 12 (2002). The Commission concluded that "[t]he Bureau Order found that [the attacher] presented sufficient evidence to the contrary, and we agree. The evidence introduced by the parties, and cited by the Bureau, supported the finding that it was the specific practice of [the pole owner] not to require that [the attacher] gain advance authorization for drop poles (or, therefore, to pay fees for them) until 1998." *Id.*

Moreover, the Commission's *Mile Hi* decision does not support the rule proposed by Fibertech. That decision only addressed the attachment of drop lines to "drop poles." According to the Bureau, "[p]oles used for service drops are usually 30 feet or less in height and are typically smaller in diameter than supply line poles." *Mile Hi*, ¶ 17. By contrast, Fibertech seeks a rule that would permit attaching drop lines to supply or distribution poles without prior authorization. For example, Fibertech's proposed rule would eliminate the requirement of prior authorization for an attachment "when ***distribution poles*** line both sides of the street (typically ILEC poles on one side and electric company poles on the other), the customer's home is across the street from the CATV distribution line, and the drop line therefore is run across the street to a ***distribution pole*** and then to the house." *Fibertech Petition* at 22 (emphasis supplied). Fibertech's proposed rule would also allow an attachment without prior authorization "when the

customer's home is located inside the boundary of the franchise service area but slightly beyond the terminal point of the cable company's distribution line, so that the drop line must be attached to one or more ***poles along the roadway*** in order to reach the residence." *Id*. (emphasis supplied). Accordingly, these commenters reliance on the *Mile HI* decision is inappropriate.

There is also no reason to treat drop poles differently from any other pole. As Ms. Harrington explains, allowing attachers to attach their facilities to drop poles without prior licensing would undermine the licensing process and inevitably lead to additional work for attachers and potentially hazardous conditions. *Harrington Reply Decl.*, ¶¶ 22-23. For example, if a segTEL technician were to attach facilities to a Verizon drop pole without prior licensing, he would have no way of knowing whether another attacher had already applied for a license on that drop pole in that same space. When the other attacher dispatched its technician to attach its facilities to that drop pole, he would find segTEL's facilities already attached in the space that had been licensed for his attachment. He would then have to appeal to the pole owner to have segTEL remove its facilities and return after arrangements had been made for the removal of segTEL's facilities. Moreover, even if segTEL did not attach its facilities in the space licensed to another attacher, the drop pole might have already been licensed for the maximum safe load. As the other licensed attachers attach their facilities, the drop pole would become overloaded as a result of segTEL's unlicensed attachment. segTEL would then need to remove its facilities and later reinstall them once a larger drop pole has been set. *Id*., ¶ 23. In either case, additional work, expense and time delays would have been caused directly by segTEL's failure to obtain a license prior to attaching its facilities to a drop pole. *Id*.

IV. Proposed Rules Regarding Access to Building-Entry Conduit

Verizon's Opposition explained that in those cases where Verizon owns the building-entry conduit, it treats requests for conduit access in the same manner as any other request for a conduit attachment: evaluating each request on a case-by-case basis to ensure that additional facilities can be installed safely and in compliance with general engineering principles. In addition, a new product known as MaxCell® has been developed to facilitate the safe installation of multiple facilities in conduit and Verizon permits attachers to place facilities in its building-entry conduit when MaxCell® can be used to ensure safe installation.

CompTel proposes that "when the incumbent LEC is the owner of the building … any failure to provide timely access to conduit by an incumbent LEC should be a presumptive violation of Sections 224 and 251(b)(4)." CompTel Comments at 8. CompTel has not offered any justification for shifting the complainant's burden of proof. There are a number of legitimate reasons why an incumbent LEC might deny access to its building-entry conduit. For example, all existing conduit could be used to capacity and the local government may have denied the incumbent LEC's request for a permit to construct additional conduit. If an attacher has been denied access to conduit and it files a complaint, it should bear the same burden of proving that there has been a violation of a statutory requirement as any other complainant.

CONCLUSION

For the foregoing reasons, the Commission should deny Fibertech's petition for a rulemaking and should not adopt any of the new rules proposed by Fibertech or any other commenter regulating pole and conduit access.

Respectfully submitted,

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Of Counsel

Date: March 1, 2006

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REPLY DECLARATION OF GLORIA HARRINGTON

1. My name is Gloria Harrington. I submitted a declaration in this proceeding on January 30, 2006. My qualifications are set forth in that previous declaration.

2. The purpose of my reply declaration is to respond to the proposals made by several commenters in this proceeding. None of these commenters provide any evidence of widespread problems to justify their proposals. In fact, Verizon's processes already allow competitors to obtain access to Verizon's poles and conduit in a timely and non-discriminatory manner. There is no reason for the Commission to adopt any new rules for pole attachments or conduit.

Pole Attachment Applications and Make-Ready Intervals

3. As I explained in my previous declaration, there is no reason for the Commission to change the existing intervals for pole applications or to establish a new deadline for make-ready work. Verizon completes surveys on pole applications in a timely manner. In addition, Verizon completes make-ready work on poles in a timely and nondiscriminatory manner.

4. In its comments, McLeod suggests that whenever a pole owner denies an application, it should be required to meet promptly with the applicant to develop an alternative route that is likely to be available. McLeod Comments at 4. There is no need to have such a meeting with applicants that have participated in Verizon's application process.

5. When Verizon receives a pole application, it schedules a joint survey with the applicant (and, in certain cases, the other pole owner for jointly owned poles). During this joint survey, the applicant's representative will immediately become aware of any problems with attaching to any of the poles listed on the application. Verizon's engineer will discuss these problems with the applicant's representative during the survey and will explore the feasibility of alternative arrangements at that time. It would delay the application process to postpone those discussions until after Verizon denied the application.

6. McLeod also suggests that small projects should have shorter time frames than larges ones, so that applications for a small number of poles can be completed within less than 45 days. McLeod Comments at 4. The time needed to complete a pole attachment survey is not necessarily determined by the number of poles. For example, an application for 10 poles that are scattered throughout a municipality could take longer to complete than an application for 20 poles that are all next to each other on the same street.

7. Moreover, creating separate intervals for applications based on the number of poles may encourage applicants to game the process. Rather than submit an application with a large number of poles that comprise a complete end to end route,

applicants may instead submit multiple applications for a small number of poles on that route just to take advantage of the shorter interval on such applications.

8. McLeod also proposes that the Commission require all pole owners to set forth in writing their application processes and time frames. McLeod Comments at 4. In those states where Verizon regularly receives pole attachment applications, Verizon has developed application processes and time frames, which are posted on Verizon's website. In addition, Verizon makes applicants aware of these processes and time frames through workshops and industry letters.

9. In other states, Verizon might receive only a few pole attachment applications in a single year. In these states, Verizon does not process enough applications to make it worthwhile to develop written processes to address these applications. However, Verizon's website lists contact information for each state and those contacts can provide guidance and answer any question an applicant may have about the application process.

10. segTEL suggests that delays can arise if a second pole owner is involved in the application. segTEL Comments at 7. Verizon already works with the applicant to resolve any delays caused by a joint owner of the involved poles. For example, if an applicant applies for a license on a pole that is jointly owned by Verizon and an electric utility, Verizon will escalate with the management of the electric utility if there is a delay in the issuance of the license by the electric utility.

Boxing and Extension Arms.

11. As I explained in my previous declaration, Verizon does not use boxing as a general construction practice because it complicates pole replacements, removals, and

the cable transfers required when performing pole replacements. However, Verizon does allow attachers to box a pole in certain situations where Verizon has used or would use the boxing method to attach its own facilities to that pole. The determination of whether to allow a pole to be boxed is made on a case by case basis, recognizing that such attachments need to be in compliance with relevant safety codes.

12. Two commenters – McLeod and segTEL – suggest that the Commission should require pole owners to allow boxing on their poles even if the pole owner has not previously allowed such techniques. McLeod Comments at 3; segTEL Comments at 3. According to segTEL, the use of pole boxing, extension arms and standoff assemblies for the placement of additional cable "is an accepted practice in the telecommunications industry." segTEL Comments at 3.

13. In my experience, the use of pole boxing, extension arms and standoff assemblies is not an accepted general practice in telecommunications industry. Rather, these techniques are used on an exception basis where it makes sense to do so. Because of the widely varying field conditions where Verizon has placed poles, it is simply not possible to establish a set of general rules to govern the use of these techniques. Each situation must be evaluated individually to determine whether pole boxing, extension arms or standoff assemblies can be used safely and efficiently.

14. Moreover, as I explained in my previous declaration, pole boxing, extension arms and standoff devices greatly complicate pole replacements and make it more difficult and dangerous to work on pole attachments. A pole owner that has not previously allowed the use of these techniques in particular circumstances will not likely have the equipment and trained personnel that are necessary for these attachment

techniques. If a pole owner that has not previously permitted the use of pole boxing, extension arms or standoff devices in particular circumstances were forced to do so, it would likely have to devote substantial resources to acquire specialized equipment and to train its personnel to accommodate these pole attachment techniques.

15. segTEL claims that one of the reasons boxing, extension arms and standoff devices are needed is because "the ILEC has taken the lowest position on the poles, but has placed its lowest cable substantially higher than the minimum clearance." segTEL Comments at 3. segTEL suggests that ILECs should either be required to attach their facilities at the minimum clearance level (and move pre-existing attachments to that position) or permit attaching parties to cross over the ILECs' facilities to attach in a lower position on the pole. *Id*. These proposals would create safety concerns for the general public and make it more difficult to complete pole replacements.

16. The reason Verizon's facilities are placed beneath all other attachments is that copper cables are heavier than other attachments and sag more at the mid-point between the poles. For example, a 600 pair copper cable weighs about 2 pounds per foot and will sag about 3 to 4 feet at the mid-point. If this cable is attached at 22 feet on the pole, it will only have 18-19 feet of clearance at the mid-point. This clearance can be further reduced by ice loading and other environmental conditions. A fiber cable (with more capacity than a 600 pair copper cable), on the other hand, only weighs about one tenth of a pound per foot and will only sag about 6 inches at the mid-point.

17. Because a heavier cable sags more, it makes good engineering sense to place the heaviest cable below other attachments on the pole. If a lighter fiber optic cable were placed below a heavier copper cable and there were only 12 inches of separation

between the attachments at the pole, there would not be 12 inches of separation at the mid-point. In fact, the copper cable attached ***above*** the fiber cable would actually sag about 2 feet ***below*** the fiber cable at the mid-point. The two cables would likely become entangled and damaged by wind and other environmental conditions.

18. In addition, placing an attacher's facilities below Verizon's facilities on the pole will complicate pole replacements. When facilities are transferred from an old pole to a new pole, they are scheduled in order from top to bottom. Where Verizon's facilities are on the bottom, Verizon can transfer its facilities and remove the pole at the same time. If Verizon's facilities were not at the bottom, Verizon would have to make one trip to transfer its facilities to the new pole and a second trip to remove the old pole after the attacher at the bottom transfers its facilities.

19. There are also sound reasons for Verizon to attach its facilities above the minimum clearance level, particularly over a roadway. If the minimum clearance is 18 feet over a roadway and the cable ordinarily sags 3 to 4 feet at the mid-point, Verizon could meet the minimum clearance by attaching at 22 feet on the poles. However, as explained above, ice loading and other environmental conditions may temporarily increase the sag and place Verizon's facilities below the minimum clearance level. In addition, the roadway might be regraded or realigned to increase its height. Such roadway work will place Verizon's facilities below the minimum clearance level. Finally, placing Verizon's facilities above the minimum clearance level provides an extra measure of safety against overheight vehicles that travel the roadway.

Unlicensed Drop Lines

20. As I explained in my previous declaration, Verizon manages drop wire attachments in exactly the same manner as any other pole attachments. Drop wires must satisfy minimum clearance requirements and must be attached safely and without overloading the pole. Allowing attachments to poles without first securing a license undermines the pole owners' ability to manage access to poles in a non-discriminatory manner and on a first come, first served basis. The licensing process insures all applicants' requests are considered in the order received and that make-ready costs are properly attributed to the cost causer.

21. Several commenters suggest that attachments on drop poles should be exempt from the prior licensing process. *See, e.g.*, segTEL Comments at 8. As with drop wires, there is no reason to treat drop poles differently from other poles. Verizon treats attachments to all types of poles, even drop poles, as subject to the same application and licensing process. Verizon's pole attachment agreements do not create an exception for drop poles.

22. Allowing attachers to attach their facilities to drop poles without prior licensing (as segTEL and others suggest) would undermine the licensing process and inevitably lead to additional work for attachers and potentially hazardous conditions. For example, if a segTEL technician were to attach facilities to a Verizon drop pole without prior licensing, he would not know whether another attacher had already applied for a license on that drop pole in that same space. When the other attacher dispatched its technician to attach its facilities to that drop pole, he would find segTEL's facilities already attached in the space that had been licensed for his attachment. He would then

have to appeal to the owner of the drop pole to have segTEL remove its facilities and return after arrangements had been made for the removal of segTEL's facilities. Additional work, expense and time delays would have been caused directly by segTEL's failure to obtain a license prior to attaching its facilities to a drop pole.

23. Moreover, even if segTEL did not attach its facilities in the space licensed to another attacher, the drop pole might have already been licensed for the maximum safe load. As the other licensed attachers attach their facilities, the pole will become overloaded as a result of segTEL's unlicensed attachment. segTEL will then need to remove its facilities and later reinstall them once a larger drop pole has been set. Again, additional work, expense and time delays would have been caused directly by segTEL's failure to abide by the licensing process.

Conduit Record Searches, Surveys and Make-Ready

24. As I explained in my previous declaration, Verizon is providing access to conduit in a timely manner. This includes: (a) providing access to its conduit records in a timely manner; (b) processing conduit applications in a timely manner; and (c) completing make-ready work on conduit in a timely and nondiscriminatory manner.

25. McLeod suggests that whenever a conduit owner denies an application, it should be required to meet promptly with the applicant to develop an alternative route that is likely to be available. McLeod Comments at 4. Verizon already makes available an alternative process for attachers in New England states that would like a conduit route between two points, such that no additional regulation is necessary. Under this process, Verizon will look for alternative routes if the route requested by the attacher is not

available. In addition, the attacher can request that Verizon provide assistance in planning a route even before the attacher submits an application.

26. McLeod also suggests that small projects should have shorter time frames than larger ones, so that applications for short segments of conduit can be completed within less than 45 days. McLeod Comments at 4. The time needed to complete a conduit survey is not necessarily determined by the size of the conduit segments. For example, surveying a short segment of conduit in a downtown area may require that Verizon apply to the local transportation department for permission to divert traffic while the manhole is opened and it may take several weeks for the local transportation department to process Verizon's application. In addition, a short segment in an urban area may have more conduits that need to be checked for available space and overall condition than a long segment in a rural area.

27. Moreover, creating separate intervals for applications based on the number of conduit segments may encourage applicants to game the process. Rather than submit an application with a large number of segments that comprise a complete end to end route, applicants may instead submit multiple applications for short segments on that route just to take advantage of the shorter interval on such applications.

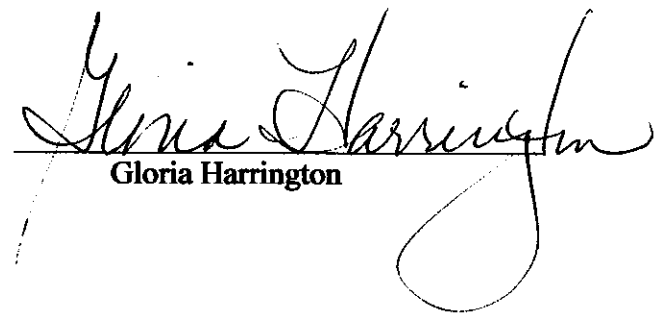
28. McLeod also proposes that the Commission require all conduit owners to set forth in writing their application processes and time frames. McLeod Comments at 4. In those states where Verizon regularly receives conduit applications, Verizon has developed application processes and time frames, which are posted on Verizon's website. In addition, Verizon makes applicants aware of these processes and time frames through workshops and industry letters.

29. In other states, Verizon might receive only a few conduit applications in a single year. In these states, Verizon does not process enough applications to make it worthwhile to develop written processes to address these applications. However, Verizon's website lists contact information for each state and those contacts can provide guidance and answer any question an applicant may have about the application process.

30. The new rules proposed by several commenters are unnecessary. Verizon has made and continues to make pole attachments and conduit available to Fibertech and other competitors in a timely and nondiscriminatory manner.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 1, 2006



Gloria Harrington